MT LEGISLATIVE HISTORY

Chapter 356 1979

Bill H 223 S _____ Original bill & hist. ✓C

H. Committee on _____		S. Committee on _____	
Hearing Date(s) _____	___C	Hearing Date(s) _____	___C
1/22	✓C	2/28	✓C
_____	___C	_____	___C
_____	___C	_____	___C
Date Out 1/24	✓C	3/1	✓C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

25 pp

CHAPTER NO. 356

HOUSE BILL NO. 223

INTRODUCED BY CONROY

IN THE HOUSE

January 17, 1979	Introduced and referred to Committee on Judiciary.
January 25, 1979	Committee recommend bill do pass as amended. Report adopted.
January 26, 1979	Printed and placed on members' desks.
January 27, 1979	Second reading, do pass.
January 29, 1979	Considered correctly engrossed.
January 30, 1979	Third reading, passed. Transmitted to second house.

IN THE SENATE

January 31, 1979	Introduced and referred to Committee on Judiciary.
March 7, 1979	Committee recommend bill be concurred in as amended. Report adopted.
March 9, 1979	Second reading, concurred in.
March 13, 1979	Third reading, concurred in as amended.

IN THE HOUSE

March 14, 1979	Returned from second house. Concurred in as amended.
March 16, 1979	Second reading, amendments adopted.

March 17, 1979

Third reading, amendments adopted. Sent to enrolling.

Reported correctly enrolled.

HOUSE BILL NO. 223

INTRODUCED BY Conroy

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 45-8-213, MCA, TO PERMIT SUPERVISORY LAW ENFORCEMENT PERSONNEL TO CONTROL TELEPHONE COMMUNICATIONS TO AND FROM A PERSON HOLDING HOSTAGES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 45-8-213, MCA, is amended to read:

"45-8-213. Privacy in communications. (1) A Except as provided in subsection (3), a person commits the offense of violating privacy in communications if he knowingly or purposely:

(a) with the purpose to terrify, intimidate, threaten, harass, annoy, or offend, communicates with any person by telephone and uses any obscene, lewd, or profane language, suggests any lewd or lascivious act, or threatens to inflict injury or physical harm to the person or property of any person (the use of obscene, lewd, or profane language or the making of a threat or lewd or lascivious suggestions is prima facie evidence of an intent to terrify, intimidate, threaten, harass, annoy, or offend);

(b) uses a telephone to attempt to extort money or any other thing of value from any person or to disturb by repeated telephone calls the peace, quiet, or right of privacy of any person at the place where the telephone call or calls are received;

(c) records or causes to be recorded any conversation by use of a hidden electronic or mechanical device which reproduces a human conversation without the knowledge of all parties to the conversation. Subsection (c) does not apply to duly elected or appointed public officials or employees when the transcription or recording is done in the performance of official duty, to persons speaking at public meetings, or to persons given warning of the recording.

(d) by means of any machine, instrument, or contrivance or in any other manner:

(i) reads or attempts to read any message or learn the contents thereof while it is being sent over a telegraph line;

(ii) learns or attempts to learn the contents of any message while it is in a telegraph office or is being received thereat or sent therefrom; or

(iii) uses, attempts to use, or communicates to others any information so obtained;

(e) discloses the contents of a telegraphic message or any part thereof addressed to another person without the permission of such person, unless directed to do so by the lawful order of a court; or

LC 0862/01

(f) opens or reads or causes to be read any sealed letter not addressed to himself without being authorized to do so by either the writer of the letter or the person to whom it is addressed or, without the like authority, publishes any of the contents of the letter knowing the same to have been unlawfully opened.

(2) A person convicted of the offense of violating privacy in communications shall be fined not to exceed $500 or imprisoned in the county jail for a term not to exceed 6 months, or both.

(3) A supervisory law enforcement official who has jurisdiction in a geographical area where hostages are being held and who has probable cause to believe that the holder of the hostages is committing a crime may order a telephone security employee to cut, reroute, or divert telephone lines in order to prevent the holder of the hostages from communicating with any person other than a law enforcement officer or an individual authorized by a law enforcement officer. A telephone security employee acting in good faith under an order given pursuant to this subsection does not commit the offense of violating privacy in communications."

-End-

Judiciary COMMITTEE

46th Legislature HOUSE

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Ou
HB 184	relating to criminal procedure	1/16	Marks	Friday 19th	do pass-amend	1/24
HB 185	relating to contracts and other obligations	1/16	Marks	Friday 19th	do pass	1/24
HB 194	revise laws in title 1	1/16	Manuel	Friday 19th	do pass-amend	1/24
HB 203	adopt uniform enforcement of foreign judgments act	1/16	Anderson	Friday 19th	do pass-amend	1/24
HB 223	permit supervisory law enforcement personnel to control telephone to and from person holding hostages	1/17	Conroy	Monday 22nd	do pass-amend	1/24
HB 224	offense of custodial interference an individual taken from lawful custody to lawful custody - arrest	1/17	Conroy	Monday 22nd	do pass	1/22

HOUSE OF REPRESENTATIVES
JUDICIARY COMMITTEE
January 22, 1979

The regular meeting of the House Judiciary Committee was called to order by Chairman Scully in Room 436 of the Capitol Building at 8 a.m. on Monday, January 22, 1979. All members were present with the exception of Representatives Anderson, Daily, Holmes, and Pavlovich, excused and Representative Uhde, absent.

Bills scheduled for hearing were: House Bills 223, 224 and 225.

HOUSE BILL NO. 223: Representative Conroy, as sponsor of the bill said that this bill came about as a result of the Clyde Rector case in Eureka. It would help provide law enforcement in that type of situation. It would allow law enforcement personnel to control telephone communications to and from a person holding hostages.

TOM HONZEL: County Attorney Association. The problem came to our attention during the case in Eureka. I am sure all of you are aware of the legal proceedings that followed that case. That legal battle continued for a long time. This bill does not address the problem of getting the tape, but they would be capable of keeping the lines of communicati open.

Representative Uhde came in.

Mr. Honzel continued, time is often critical. It is important that the person be able to talk to someone quickly if he should have to do so. About the bill, I find that there is a problem with the language. I understand that some of the telephone companies do not have any type of security. He offered an amendment on page 3, line 14.

Amendments will be prepared as previousl designated, and presented to the committee.

JIM HUGHES: Telephone Company official. We don't have any problem with this once we have tuned up for logistics purposes. We are concerned that we might be held liable without some type of security.

There was some further discussion on the amendment and with no questions and no further discussion the hearing closed on House Bill No. 223.

HOUSE BILL NO. 224: Representative Conroy said this is a simple line amendment. He explained the purpose of the bill. A person does not commit an offense under

Also on page 3, lines 9 and 10, to strike and renumber. This motion also passed with the vote unanimous, as moved by Representative Keyser.

Representative Lory moved "do pass as amended" and the motion carried with the vote unanimous. Representative Kemmis moved to place the bill on the consent calendar. The motion carried with the vote unanimous. The bill will go to the consent calendar.

HOUSE BILL NO. 203: It was noted that the sheet of new amendments presented would supersede the earlier ones. Representative Anderson moved the adoption of the amendments. The motion carried with the vote unanimous after Larry explained them and following discussion.

Representative Anderson moved "do pass as amended" and the motion carried with the vote unanimous.

HOUSE BILL NO. 223: Representative Keyser questioned page 3, line 15, the California statute was discussed offered an amendment but then withdrew it.

Representative Keedy moved an amendment on page 3, line 15, to strike "cut". Representatives Uhde and Anderson talked in support of the amendment. After some further discussion the question was called and the roll call vote of 12 to 7 carried.

Yes:	Anderson	No:	Conroy	Rosenthal
	Curtiss		Daily	Roth
	Day		Eudaily	Seifert
	Holmes		Iverson	Teague
	Keedy		Keyser	Scully
	Kemmis		Lory	
	Uhde		Pavaovich	

Representative Kemmis offered an amendment on page 3, line 19, following "employee" insert "or other telephone company official. The amendments presented by the telephone company were moved and carried with the vote unanimous.

Representative Lory moved "do pass as amended" and the motion carried with the vote unanimous.

HOUSE BILL NO. 225: Representative Scully read a letter from Tom Honzel (copy attached). Representative Conroy moved the stockgrowers amendments be adopted. Representative Day moved a substitute motion on line 12 insert

January 24

HB 223

BEST COPY AVAILABLE

previously designated

2. Page 3, line 15.
Following: "employee"
Insert: "or other telephone company official to arrange"

3. Page 3, line 19.
Following: "officer."
Insert: "The serving telephone company within the geographical area of a law enforcement agency shall designate a telephone company security employee or other telephone company official and an alternate to provide all required assistance to law enforcement officials to carry out the purposes of this subsecti
Following: "A telephone security employee"
Insert: "or other telephone company official"

John P. Scully.

COMMITTEE ON Judiciary - Senate

	BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
81.	SB-296	1/30/79	2/5/79	2/8/79	2/7/79					
82.	SB-301	1/31/79	2/13/79	2/19/79			2/18/79			
83	SB-322	1/31/79	2/7/79	2/8/79		2/8/79				
84.	SB-314	1/31/79	2/6/79	2/19/79			2/18/79			
85.	SJR-12	1/31/79	2/8/79	Left with Sec. to Hear				Senate		
86.	HB-184	1/31/79	2/23/79	2/23/79				2/23/79		
87.	HB-194	1/31/79	2/23/79	2/23/79					2/23/79	
88.	HB-203	1/31/79	2/28/79	3/1/79						3/1/79
89.	HB-223	1/31/79	2/28/79	3/1/79					3/1/79	
90.	HB-225	1/31/79	2/28/79	Tabled 2/28/79						
91.	HB 226	1/31/79	2/28/79	2/28/79				2/28/79		
92.	HB 229	1/31/79	3/1/79	3/2/79					3/1/79	
93	HB 242	1/31/79	3/1/79	3/2/79					3/1/79	
94.	HB 270	1/31/79	3/2/79	3/5/79				3/5/79		
95.	HB 308	1/31/79	3/2/79	3/2/79				3/2/79		
96.	HB-252	2/1/79	3/1/79	3/6/79						3/6/79

Use a separate sheet for Senate, House Bills, and Resolutions.

HOUSE BILL NO. 223

INTRODUCED BY CONROY

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 45-8-213, MCA, TO PERMIT SUPERVISORY LAW ENFORCEMENT PERSONNEL TO CONTROL TELEPHONE COMMUNICATIONS TO AND FROM A PERSON HOLDING HOSTAGES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 45-8-213, MCA, is amended to read:

"45-8-213. Privacy in communications. (1) A Except as provided in subsection (3), a person commits the offense of violating privacy in communications if he knowingly or purposely:

(a) with the purpose to terrify, intimidate, threaten, harass, annoy, or offend, communicates with any person by telephone and uses any obscene, lewd, or profane language, suggests any lewd or lascivious act, or threatens to inflict injury or physical harm to the person or property of any person (the use of obscene, lewd, or profane language or the making of a threat or lewd or lascivious suggestions is prima facie evidence of an intent to terrify, intimidate, threaten, harass, annoy, or offend);

(b) uses a telephone to attempt to extort money or any other thing of value from any person or to disturb by repeated telephone calls the peace, quiet, or right of privacy of any person at the place where the telephone call or calls are received;

(c) records or causes to be recorded any conversation by use of a hidden electronic or mechanical device which reproduces a human conversation without the knowledge of all parties to the conversation. Subsection (c) does not apply to duly elected or appointed public officials or employees when the transcription or recording is done in the performance of official duty, to persons speaking at public meetings, or to persons given warning of the recording.

(d) by means of any machine, instrument, or contrivance or in any other manner:

(i) reads or attempts to read any message or learn the contents thereof while it is being sent over a telegraph line;

(ii) learns or attempts to learn the contents of any message while it is in a telegraph office or is being received thereat or sent therefrom; or

(iii) uses, attempts to use, or communicates to others any information so obtained;

(e) discloses the contents of a telegraphic message or any part thereof addressed to another person without the permission of such person, unless directed to do so by the lawful order of a court; or

THIRD READING

(f) opens or reads or causes to be read any sealed letter not addressed to himself without being authorized to do so by either the writer of the letter or the person to whom it is addressed or, without the like authority, publishes any of the contents of the letter knowing the same to have been unlawfully opened.

(2) A person convicted of the offense of violating privacy in communications shall be fined not to exceed $500 or imprisoned in the county jail for a term not to exceed 6 months, or both.

(3) A supervisory law enforcement official who has jurisdiction in a geographical area where hostages are being held and who has probable cause to believe that the holder of the hostages is committing a crime may order a PREVIOUSLY DESIGNATED telephone security employee OR OTHER TELEPHONE COMPANY OFFICIAL TO ARRANGE to cut, reroute, or divert telephone lines in order to prevent the holder of the hostages from communicating with any person other than a law enforcement officer or an individual authorized by a law enforcement officer. THE SERVING TELEPHONE COMPANY WITHIN THE GEOGRAPHICAL AREA OF A LAW ENFORCEMENT AGENCY SHALL DESIGNATE A TELEPHONE COMPANY SECURITY EMPLOYEE OR OTHER TELEPHONE COMPANY OFFICIAL AND AN ALTERNATE TO PROVIDE ALL REQUIRED ASSISTANCE TO LAW ENFORCEMENT OFFICIALS TO CARRY OUT THE PURPOSES OF THIS SUBSECTION. A telephone security

employee OR OTHER TELEPHONE COMPANY OFFICIAL acting in good faith under an order given pursuant to this subsection does not commit the offense of violating privacy in communications."

-End-

BILLS TO BE HEARD BY SENATE JUDICIARY - WEDNESDAY, FEB. 28

1.) HB 225: (Conroy)

Current law: under 81-4-215, an owner of livestock that trespasses on another's land is civilly liable for all damages.

Proposed bill: would add a criminal penalty for knowingly allowing livestock to enter or remain on another's land. The crime would be a misdemeanor and the criminal penalty would be in addition to civil liability.

2.) HB 226: (Conroy)

Current law: current statutes say that the court may appoint counsel for a minor in divorce and guardianship proceedings. A Mantaro Supreme Court decision in 1977 interpreted these statutes to mean that in all cases the court has to appoint the county attorney.

Proposed bill: provides that county attorneys or deputy county attorneys can not be appointed in these cases.

3.) HB 223: (Conroy)

Current law: 45-8-213 makes it a misdemeanor to interfere in the privacy in communications of others. Among the things prohibited are making obscene or annoying phone calls, recording others conversation without consent, reading other's mail, etc.

Proposed bill: would allow supervisory law enforcement personnel to control telephone communications to and from a person holding a hostage. The bill would exempt telephone employees acting under an order pursuant to this subsection from the offense of violating privacy in communications.

4.) HB 224: (Conroy)

Current law: it is a criminal offense to interfere with the lawful custody of a child, incompetent, or other person. Such offense is a felony. Under current law, if the offender returns the person to lawful custody before trial, no offense is committed.

Proposed bill: shortens the time within which the offender can return the person to lawful custody without committing the offense of custodial interference. Under the proposed bill, the offender must return the person prior to arrest (rather than trial.)

#46

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
February 28, 1979

The forty-sixth meeting of the Senate Judiciary Committee was called to order by Senator Everett R. Lensink, chairman, in room 331 of the capitol building on the above date at 9:32 a.m.

ROLL CALL:

All members were present.

CONSIDERATION OF HOUSE BILL 133:

Representative Eudaily stated that this bill was introduced at the request of the attorney general. This bill, which is an act to require notice to the attorney general when a state department or board initiates or intervenes in a court action or initiates an appeal, was the result of an interim study of state legal services.

Mike McGrath, Assistant Attorney General in the Department of Justice, gave a statement in support of this bill. He stated that if a person sues the state, the attorney general must be served, if the state files an appeal, then the attorney general would also have to be served; and this would allow one point in state government where litigation matters are taken care of.

There were no further proponents and no opponents.

Senator Brown questioned if this bill was really necessary, and wondered if this couldn't be done by the governor issuing an order, and questioned if it has to be done by statute. Mr. McGrath stated that he does not think that it can be done that way, that the supreme court said that the attorney general can't control the Department of Natural Resources and the only department that he knew that was following this now is the Department of Fish and Game.

Senator Towe questioned when they get the notice, what will they do with it and Mr. McGrath said that it depends, that they discussed this at a staff meeting and a determination was made that the pleadings as they come in would be reviewed, they would assign them to someone, and that probably they would not do anything but there might be cases where the attorney general might want to have considerable contact with the agency.

Senator Towe moved that the bill be concurred in. The motion carried unanimously.

forty-eight hours, and he gave an example of his father's problems in the Bitterroot, and he stated that forty-eight hours is too long.

Senator Towe questioned why do you need any notice if he intentionally does it.

Senator Olson questioned if there was a definition of legal fence, and it was answered that it must be two strands; and he asked how about an electric fence and one strand, the reply was it must be two strands.

There were no further questions or comments, and the hearing on this bill was closed.

CONSIDERATION OF HOUSE BILL 223:

This is an act to permit supervisory law enforcement personnel to control telephone communications to and from a person holding hostages. Representative Conroy gave an explanation of this bill.

Tom Honzel, representing the Montana Association of County Attorneys, stated that they became aware of this problem last year; they became concerned that they had no communication between a house and themselves other than a bull horn; and they were particularly interested in telephone lines. He stated that an individual may be holding hostages and someone has to be in charge of that situation to get a call into the person or get a call out. He said that they are trying to give law enforcement people an additional tool to save lives and that other states do have similar legislation. He stated that he talked to the telephone people, who stated that they did not have problems with this bill.

Jim Hughes, representing Mountain Bell Telephone Company, stated that he would like to offer language that they feel would much more closely define what the liability would be. He offered an amendment to the committee.

There were no further proponents and no opponents.

Senator Towe stated that the old statute on wire tapping was eliminated and he wondered why this bill is even necessary.

Mr. Honzel said that he did not know without this legislation, if they can do this; and he said that if Mountain Bell cuts the lines, there is a potential that they might be liable. Mr. Hughes

Date Wed. 3/28/79

ROLL CALL

JUDICIARY COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
Lensink, Everett R., Chr. (R)	✓		
Olson, S. A., V. Chr. (R)	✓		
Turnage, Jean A. (R)	✓		
O'Hara, Jesse A. (R)	✓		
Anderson, Mike (R)	✓		
Galt, Jack E. (R)	✓		
Towe, Thomas E. (D)	✓		
Brown, Steve (D)	✓		
Van Valkenburg, Fred (D)	✓		
Healy, John E. (Jack) (D)	✓		

Each Day Attach to Minutes.

SENATE

Please sign + return to Secretary. Thank you

SENATE Judiciary COMMITTEE

BILL _____ VISITORS' REGISTER DATE 2/28/79

Please note bill no.

NAME	REPRESENTING	BILL #	(check one) SUPPORT	OPPOS
Jim Hughes	Mountain Bell	HB223	AMEND	
[illegible]	[illegible]	[illegible]		✓
R Bruce McGinnis	MDOR	HB63	—	
Mons Teigen	Mont Stockgrowers Wool Growers Farm Bur Agri Bus Assn	225		X
[illegible]	[illegible]	[illegible]		X
[illegible]	Western Pipe & Steel	225		✓
[illegible]	Big Western Supply Co	225		✓
Sharon Peterson	[illegible]	225		✓
Alice Frysle	Montana Cattlemen's Assn	225		✓
Ralph Eudaily	Representative Dist 16	133		
Robert Anderson	Representative Dist 16	203	✓	
Tim Hough	County Attorneys	223 224 225 226	✓	
Mike McGrath	Atty Gen	133, 169		
K Seekins Jr.		225		✓
Kim Allen				

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
March 1, 1979

The forty-eighth meeting of the Senate Judiciary Committee was called to order by Senator Everett R. Lensink in Room 331 of the Capitol Building on the above date at 4:28 p.m.

ROLL CALL:

All members were present with the exception of Senators Healy and Anderson, who were excused.

DISPOSITION OF HOUSE BILL 203:

Senator Turnage moved that this bill be concurred in. The motion carried unanimously.

DISPOSITION OF HOUSE BILL 223:

Joan Mayer from the Legislative Council offered some amendments for this bill, and she stated that she thought these amendments would make this bill worse.

Senator O'Hara stated that he thought there was some need for this. He said that an operator called in and tied up the line for one-half hour and he claimed that he was holding someone hostage. Senator Towe stated that the reporter did not realize the fellow was there; and the man, who was holding the hostage, picked up the phone. Senator O'Hara said that that was not the way he heard it.

Senator Towe stated that this would allow them to cut the line or pull the plug. Senator Van Valkenburg said that this allows the law enforcement people to listen in on any phone conversation.

Senator Towe moved that the bill be amended on page 3, line 11, by striking "(3)" and inserting "Section 2. There is a new section which reads as follows: Code and further amend page 4, following line 4, by inserting the following new language: Section 3. Note to codifier: Section 2 should be codified in part 1, chapter 6 of title 69, and further amend on page 1, line 12, strike subsection 3 and insert (Section 2). The motion carried unanimously.

Senator Turnage moved that the small amendment which was proposed by Ma Bell be adopted. The motion carried unanimously.

Senator Turnage moved that the bill be concurred in as amended. The motion carried unanimously.

DISPOSITION OF HOUSE BILL 224:

Senator Van Valkenburg moved the bill be amended by striking "arrest" on line 23 and inserting in lieu thereof "arraignment unless such person has left the state of Montana and in such case the offense is committed unless the person is returned prior to arrest." Senator Brown stated that Tom Honzel said that arraignment wouldn't do it. The motion carried unanimously.

Senator Van Valkenburg moved that the bill be concurred in as amended. The motion carried unanimously.

DISPOSITION OF HOUSE BILL 258:

Senator Turnage moved that the bill be not concurred in. He said that thousands of deeds lie in escrow in this state; and, in every instance, there has to be an acknowledgement; a typewritten name has to appear; and it would take thousands of man hours to type these names. He said that each document with an acknowledgement has a typewritten name, and he really could not understand why the clerks want this thing.

The motion carried with Senator Galt voting no.

DISPOSITION OF HOUSE BILL 242:

Senator Brown moved that this bill be amended on page 4, line 2 by striking subsection 2-4-613;. The motion carried unanimously. He further moved that the bill be amended on page 1, line 9, after "decision" that the following language be inserted "authorizing collection of attorney's fees under certain circumstances"; and further amend on page 5, line 4, after "agency" insert "in collection of attorney's fees" and on page 6, line 5 after "record" strike all the remainder of lines 5 through 8 and on page 6, after 12 insert a new subsection (5). There was some discussion and Senator Brown withdrew all his amendments.

Senator Brown moved that the bill be amended on page 6, line 5 after "record" strike all the remaining language on lines 5 through 8; and that the bill be concurred in as amended. There was some discussion. Senator Brown then moved that the bill be amended on page 6, following line 12 by adding the following new language: "New Section. Section 5. Codification. Section 3 shall be placed in chapter 4 of title 2 of M.C.A." The motion carried.

Evening

Date 3/4/79

ROLL CALL

JUDICIARY COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
Lensink, Everett R., Chr. (R)	✓		
Olson, S. A., V. Chr. (R)	✓		
Turnage, Jean A. (R)	✓		
O'Hara, Jesse A. (R)	✓		
Anderson, Mike (R)			✓
Galt, Jack E. (R)	✓		
Towe, Thomas E. (D)	✓		
Brown, Steve (D)	✓		
Van Valkenburg, Fred (D)	✓		
Healy, John E. (Jack) (D)			✓

Each Day Attach to Minutes.

SENATE

HB 223

1. Title, lines 4 and 5.
Strike: "AMEND SECTION 45-8-213, MCA, TO"

2. Title, line 7.
Following: "HOSTAGES"
Insert: "AND TO LIMIT THE LIABILITY OF TELEPHONE COMPANY OFFICIALS; AMENDING SECTION 45-8-213, MCA"

3. Page 1, line 12.
Following: "in"
Strike: "subsection (3)"
Insert: "[section 2]"

4. Page 3, line 11.
Following: line 10
Strike: "(3)"
Insert: "NEW SECTION. Section 2. Control of telephone communications to and from a person holding hostages -- nonliability of telephone company officials.

[illegible]

#48

5. Page 3, line 25.
Following: "THIS"
Strike: "SUBSECTION"
Insert: "section"

6. Page 4, line 2.
Following: "this"
Strike: "subsection"
Insert: "section"

7. Page 4, line 4.
Following: "communications"
Insert: "and is [redacted] not liable in any civ
action brought as a result of such good fait
actions"

8. Page 4.
Following: line 4
Insert: "Section 3. Codification. Section 2 is
intended to be codified as an integral part of
Title 69, chapter 6."

HB 223 - Amendment proposed by Ms Bell

1. Page 3, line 25 through line 4 on page 4.
Following: "SUBSECTION." on line 25
Strike: remainder of line 25 through line 4 on page 4
Insert: "Good faith reliance on an oder given pursuant to this subsection is a complete defense in any civil or criminal action brought as a result of actions taken by a telephone company or its employees pursuant to such order."

ALTERNATIVE:

1. Page 4, line 4.
Following: "communications"
Insert: "and is not liable in any civil action ~~[redacted]~~ brought as a result of such good faith actions"

(3) Violation of subsection (2) is justified if:

(a) the defamatory matter is true and is communicated with good motives and for justifiable ends;

(b) the communication is absolutely privileged;

(c) the communication consists of fair comment made in good faith with respect to persons participating in matters of public concern;

(d) the communication consists of a fair and true report or a fair summary of any judicial, legislative, or other public or official proceedings; or

(e) the communication is between persons each having an interest or duty with respect to the subject matter of the communication and is made with the purpose to further such interest or duty.

(4) No person shall be convicted on the basis of an oral communication of defamatory matter except upon the testimony of at least two other persons that they heard and understood the oral statement as defamatory or upon a plea of guilty.

History: **En. 94-8-111 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-8-111.**

Cross-References

Defamatory matter defined, 45-2-101.
Knowledge defined, 45-2-101.
Official proceeding defined, 45-2-101.
Person defined, 45-2-101.
Criminal responsibility of corporations, 45-2-311.

45-8-213. Privacy in communications. (1) Except as provided in 69-6-104, a person commits the offense of violating privacy in communications if he knowingly or purposely:

(a) with the purpose to terrify, intimidate, threaten, harass, annoy, or offend, communicates with any person by telephone and uses any obscene, lewd, or profane language, suggests any lewd or lascivious act, or threatens to inflict injury or physical harm to the person or property of any person (the use of obscene, lewd, or profane language or the making of a threat or lewd or lascivious suggestions is prima facie evidence of an intent to terrify, intimidate, threaten, harass, annoy, or offend);

(b) uses a telephone to attempt to extort money or any other thing of value from any person or to disturb by repeated telephone calls the peace, quiet, or right of privacy of any person at the place where the telephone call or calls are received;

(c) records or causes to be recorded any conversation by use of a hidden electronic or mechanical device which reproduces a human conversation without the knowledge of all parties to the conversation. Subsection (c) does not apply to duly elected or appointed public officials or employees when the transcription or recording is done in the performance of official duty, to persons speaking at public meetings, or to persons given warning of the recording.

(d) by means of any machine, instrument, or contrivance or in any other manner:

(i) reads or attempts to read any message or learn the contents thereof while it is being sent over a telegraph line;

(ii) learns or attempts to learn the contents of any message while it is in a telegraph office or is being received thereat or sent therefrom; or

(iii) uses, attempts to use, or communicates to others any information so obtained;

(e) discloses the contents of a telegraphic message or any part thereof addressed to another person without the permission of such person, unless directed to do so by the lawful order of a court; or

(f) opens or reads or causes to be read any sealed letter not addressed to himself without being authorized to do so by either the writer of the letter or the person to whom it is addressed or, without the like authority, publishes any of the contents of the letter knowing the same to have been unlawfully opened.

(2) A person convicted of the offense of violating privacy in communications shall be fined not to exceed $500 or imprisoned in the county jail for a term not to exceed 6 months, or both.

History: En. 94-8-114 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 33, Ch. 359, L. 1977; R.C.M. 1947, 94-8-114; amd. Sec. 1, Ch. 356, L. 1979.

Cross-References

Right of privacy, Art. II, sec. 10, Mont. Const.
Knowingly defined, 45-2-101.
Purposely defined, 45-2-101.
Threat defined, 45-2-101.
Control of telephone communication to and from a person holding hostages — nonliability of telephone company officials, 69-6-104.

45-8-214. Bribery in contests. (1) A person commits the offense of bribery in contests if he purposely or knowingly offers, confers, or agrees to confer upon another or solicits, accepts, or agrees to accept from another:

(a) any pecuniary benefit as a consideration for the recipient's failure to use his best efforts in connection with any professional or amateur athletic contest, sporting event, or exhibition; or

(b) any benefit as consideration for a violation of a known duty as a person participating in, officiating, or connected with any professional or amateur athletic contest, sporting event, or exhibition.

(2) A person convicted of the offense of bribery in contests shall be fined not to exceed $5,000 or be imprisoned in the state prison for a term not to exceed 10 years, or both.

History: En. 94-8-112 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-8-112.

Cross-References

Benefit defined, 45-2-101.
Knowingly defined, 45-2-101.
Pecuniary defined, 45-2-101.
Purposely defined, 45-2-101.
Criminal responsibility of corporations, 45-2-311.

45-8-215. Desecration of flags. (1) In this section "flag" means anything which is or purports to be the official flag of the United States, the United States shield, the United States coat of arms, the Montana state flag, or a copy, picture, or representation of any of them.

(2) A person commits the offense of desecration of flags if he purposely or knowingly:

(a) publicly mutilates, defiles, or casts contempt upon the flag;

(b) places on or attaches to the flag any work, mark, design, or advertisement not properly a part of such flag or exposes to public view a flag so altered;

(c) manufactures or exposes to public view an article of merchandise or a wrapper or receptacle for merchandise upon which the flag is depicted; or

(d) uses the flag for commercial advertising purposes.

(3) A person convicted of the offense of desecration of flags shall be imprisoned in the state prison for any term not to exceed 10 years or be fined an amount not to exceed $50,000, or both.

STANDING COMMITTEE REPORT

March 6, 19 79

MR. President:

We, your committee on Judiciary

having had under consideration House Bill No. 223

Respectfully report as follows: That House Bill No. 223,
third reading bill, be amended as follows:

1. Title, lines 4 and 5.
Strike: "AMEND SECTION 45-8-213, MCA, TO"

2. Title, line 7.
Following: "HOSTAGES"
Insert: "AND TO LIMIT THE LIABILITY OF TELEPHONE COMPANY OFFICIALS; AMENDING SECTION 45-8-213, MCA"

3. Page 1, line 12.
Following: "in"
Strike: "subsection (3)"
Insert: "[section 2]"

4. Page 3, line 11.
Following: line 10
Strike: "(3)"
Insert: "NEW SECTION. Section 2. Control of telephone communications to and from a person holding hostages--nonliability of telephone company officials.

DO PASS

(continued)

Chairman.

STATE PUB. CO.
Helena, Mont.

5. Page 3, line 25.
Following: "THIS"
Strike: "SUBSECTION"
Insert: "section"

6. Page 4, line 2.
Following: "this"
Strike: "subsection"
Insert: "section"

7. Page 4, line 4.
Following: "communications"
Insert: "and is not liable in any civil action brought as a result of such good faith actions"

8. Page 4.
Following: line 4
Insert: "Section 3. Codification. Section 2 is intended to be codified as an integral part of Title 69, chapter 6."

And, as so amended,
BE CONCURRED IN

EVERETT R. LEISIK, Chairman.

STATE PUB. CO.
Helena, Mont.

March 7, 1979

SENATE STANDING COMMITTEE REPORT
(Judiciary)

That House Bill No. 223, be amended as follows:

1. Title, lines 4 and 5.
Strike: "AMEND SECTION 45-8-213, MCA, TO"

2. Title, line 7.
Following: "HOSTAGES"
Insert: "AND TO LIMIT THE LIABILITY OF TELEPHONE COMPANY OFFICIALS; AMENDING SECTION 45-8-213, MCA"

3. Page 1, line 12.
Following: "in"
Strike: "subsection (3)"
Insert: "[section 2]"

4. Page 3, line 11.
Following: line 10
Strike: "(3)"
Insert: "NEW SECTION. Section 2. Control of telephone communications to and from a person holding hostages--nonliability of telephone company officials.

5. Page 3, line 25.
Following: "THIS"
Strike: "SUBSECTION"
Insert: "section"

6. Page 4, line 2.
Following: "this"
Strike: "subsection"
Insert: "section"

7. Page 4, line 4.
Following: "communications"
Insert: "and is not liable in any civil action brought as a result of such good faith actions"

8. Page 4.
Following: line 4
Insert: "Section 3. Codification. Section 2 is intended to be codified as an integral part of Title 69, chapter 6."

HOUSE BILL NO. 223

INTRODUCED BY CONROY

A BILL FOR AN ACT ENTITLED: "AN ACT TO ~~AMEND--SECTION 45-8-213, MCA, TO~~ PERMIT SUPERVISORY LAW ENFORCEMENT PERSONNEL TO CONTROL TELEPHONE COMMUNICATIONS TO AND FROM A PERSON HOLDING HOSTAGES AND TO LIMIT THE LIABILITY OF TELEPHONE COMPANY OFFICIALS; AMENDING SECTION 45-8-213, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 45-8-213, MCA, is amended to read:

"45-8-213. Privacy in communications. (1) A Except as provided in ~~subsection (3)~~ [SECTION 2], a person commits the offense of violating privacy in communications if he knowingly or purposely:

(a) with the purpose to terrify, intimidate, threaten, harass, annoy, or offend, communicates with any person by telephone and uses any obscene, lewd, or profane language, suggests any lewd or lascivious act, or threatens to inflict injury or physical harm to the person or property of any person (the use of obscene, lewd, or profane language or the making of a threat or lewd or lascivious suggestions is prima facie evidence of an intent to terrify, intimidate, threaten, harass, annoy, or offend);

HB 0223/03

(b) uses a telephone to attempt to extort money or any other thing of value from any person or to disturb by repeated telephone calls the peace, quiet, or right of privacy of any person at the place where the telephone call or calls are received;

(c) records or causes to be recorded any conversation by use of a hidden electronic or mechanical device which reproduces a human conversation without the knowledge of all parties to the conversation. Subsection (c) does not apply to duly elected or appointed public officials or employees when the transcription or recording is done in the performance of official duty, to persons speaking at public meetings, or to persons given warning of the recording.

(d) by means of any machine, instrument, or contrivance or in any other manner:

(i) reads or attempts to read any message or learn the contents thereof while it is being sent over a telegraph line;

(ii) learns or attempts to learn the contents of any message while it is in a telegraph office or is being received thereat or sent therefrom; or

(iii) uses, attempts to use, or communicates to others any information so obtained;

(e) discloses the contents of a telegraphic message or any part thereof addressed to another person without the

REFERENCE BILL

permission of such person, unless directed to do so by the lawful order of a court; or

(f) opens or reads or causes to be read any sealed letter not addressed to himself without being authorized to do so by either the writer of the letter or the person to whom it is addressed or, without the like authority, publishes any of the contents of the letter knowing the same to have been unlawfully opened.

(2) A person convicted of the offense of violating privacy in communications shall be fined not to exceed $500 or imprisoned in the county jail for a term not to exceed 6 months, or both.

~~(3)~~ NEW SECTION. SECTION 2. CONTROL OF TELEPHONE COMMUNICATIONS TO AND FROM A PERSON HOLDING HOSTAGES -- NONLIABILITY OF TELEPHONE COMPANY OFFICIALS. A supervisory law enforcement official who has jurisdiction in a geographical area where hostages are being held and who has probable cause to believe that the holder of the hostages is committing a crime may order a PREVIOUSLY DESIGNATED telephone security employee OR OTHER TELEPHONE COMPANY OFFICIAL TO ARRANGE to cut, reroute, or divert telephone lines in order to prevent the holder of the hostages from communicating with any person other than a law enforcement officer or an individual authorized by a law enforcement officer. THE SERVING TELEPHONE COMPANY WITHIN THE

GEOGRAPHICAL AREA OF A LAW ENFORCEMENT AGENCY SHALL DESIGNATE A TELEPHONE COMPANY SECURITY EMPLOYEE OR OTHER TELEPHONE COMPANY OFFICIAL AND AN ALTERNATE TO PROVIDE ALL REQUIRED ASSISTANCE TO LAW ENFORCEMENT OFFICIALS TO CARRY OUT THE PURPOSES OF THIS ~~SUBSECTION~~ SECTION. A telephone security employee OR OTHER TELEPHONE COMPANY OFFICIAL acting in good faith under an order given pursuant to this ~~subsection~~ SECTION does not commit the offense of violating privacy in communications AND IS NOT LIABLE IN ANY CIVIL ACTION BROUGHT AS A RESULT OF SUCH GOOD FAITH ACTIONS."

SECTION 3. CODIFICATION. SECTION 2 IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 69, CHAPTER 6.

-End-